

HOW INSURE SECURITY IN GOVERNMENT SERVICE

Past Failures and Present Remedies

DILLARD STOKES

THE present program to establish security in our government, to end spying and sabotage by Russian agents in the public service, has at least one great merit. It is the first to aim at the real goal, which is the security of the United States. Up to now, in all the programs we have worked on and fought about for twenty years, the concern has been with the loyalty of individuals, which is closely related but is not the same thing.

With new standards and new methods to back this more realistic concept of the purpose to be accomplished, the current program has much that is needed for success. But

THE discussion over Communists in government service has tended to be a fierce battle between two extremes—those who have seen only the threat to security, and those who have seen no such threat, or at least none worth bothering about if it meant a risk of any injustice in a single case. DILLARD STOKES here seeks out a middle position, emphasizing the need to find a security program that will balance the requirements of national safety with a proper concern for the rights and liberties of individuals—and he suggests concretely how he believes this can be achieved. Mr. Stokes has worked for newspapers in New Orleans, Louisville, Chicago, and Washington, and for the Associated Press. During his eleven years with the *Washington Post* he covered the federal government's investigation of foreign agents, whose trail at the time of the Nazi-Soviet pact led him from Russian propaganda enterprises to a huge network of pro-Nazi operators; for his work on this story, he received the American Newspaper Guild's 1942 Heywood Broun Award. During World War II Mr. Stokes served in Army Intelligence, and from 1948 to 1952 he was special counsel to the CIO's Political Action Committee. He was born in Georgia in 1907, has a bachelor's degree from Tulane and a law degree from the University of Louisiana.

there must be more. Above all, a clean break must be made with the lines of controversy that have been dug so deep in the last two decades.

To make a break with this barren history, however, does not mean to ignore it. Before we can bury it, we must understand certain basic questions being debated today as hotly as ever, indeed more hotly than ever. They are not well met with silence, still less with sharp political accusation and counter-accusation; they ought to be answered with facts. Once having faced the facts, maybe it will be possible to take this whole problem out of politics and allow men of good will in both parties to cooperate on a sound plan to solve it.

Some of the questions that we must answer are: Is there really any danger to the United States? Even though there has been, was it not removed by the loyalty drives of the last dozen years? Isn't the issue being exploited by rabble-rousers who have their own political axes to grind? Granted there is some danger, isn't the cure worse than the disease? What about government workers? Haven't their civil rights been trampled on? Does the present program sufficiently protect their rights?

Of these questions and many more like them, only the last three have been taken up for study by a responsible private agency. Cornell University used a grant from the Rockefeller Foundation to make and publish half a dozen surveys. Of these, *The Federal Loyalty-Security Program*, by Eleanor Bon-tecou (Cornell University Press), is the most recent. But, as is true of the series as a whole, it deals only with some of the necessary questions: it focuses on those that have to do with civil rights, skimping those that have to do with security.

WHAT about the first question—the existence and extent of a Communist threat to security in government?

By now plenty of impressive evidence has been amassed of the activity of Russian agents—Communists, their instruments, and their dupes—in this government. There are volumes of sworn testimony, tens of thousands of pages of it. There is more than a man could find time to read even if he ignored the scores of books and the hundreds of magazine articles turned out by partisans of the issue.

It is perhaps the great mass of the proof that has weakened its impact. The cases all sound alike. Summary newspaper reporting extracts no pattern from the scandals that pop up from week to week. To show such a pattern is not the reporter's job. Someone else must do it, calmly and patiently, as the Cornell scholars have handled the subsidiary issues.

But though we lack a comprehensive private study of security there is an excellent preliminary survey by the Senate Internal Security Subcommittee entitled *Interlocking Subversion in Government Departments* (Government Printing Office, 1953) which has not received the public attention it deserves. The Senators — four Republicans, three Democrats—all agree in concluding, from the evidence, that:

The Soviet international organization has carried on a successful and important penetration of the United States government, *and this penetration has not been fully exposed*. It has extended from the lower ranks to top-level policy and operating positions in our government. Its agents have operated in accordance with a distinct design fashioned by their Moscow superiors. Members of this conspiracy helped to get each other into government, helped each other to rise in government, and protected each other from exposure.

Thousands of diplomatic, political, military, scientific, and economic secrets of the United States have been stolen by Soviet agents in our government and by other persons closely connected with the Communists.

Policies and programs laid down by members of this Soviet conspiracy are still in effect within our government and constitute a continuing hazard to our national security.

THE Senators declare: "According to the evidence in our records, those involved in the secret Communist underground included: an executive assistant to the President of the United States; an Assistant Secretary of the Treasury; a United States Treasury attaché in China; the Director of the Office of Special Political Affairs for the State Department; the secretary of the International Monetary Fund; the head of the Latin-American Division of the Office of Strategic Services; a member of the National Labor Relations Board; chief counsel, Senate Subcommittee on Civil Liberties; chief, Statistical Analysis Branch, War Production Board; Treasury Department representative and adviser in Financial Control Division of the North African Economic Board in UNRRA, and at the meeting of the Council of Foreign Ministers in Moscow; director, National Research Project of the Works Progress Administration."

The Senators cite sworn testimony that the Russian agents made use of these posts, and of hundreds of others, to carry out their mission: "They colonized key committees of Congress. They helped write laws, conduct Congressional investigations and write committee reports. They advised Cabinet members, wrote speeches for them and represented them in intergovernmental conferences. They staffed interdepartmental committees which *prepared basic American and world policy*. They travelled to every continent as emissaries and spokesmen of the American people. They attended virtually every international conference where statesmen met to shape the future."

Members of the apparatus constantly were adding to their power and effectiveness: "They hired each other. They promoted each other. They raised each other's salaries. They transferred each other from bureau to bureau, from department to department, from Congressional committee to Congress-

sional committee. They assigned each other to international missions. They vouched for each other's loyalty and protected each other when exposure threatened." (For instance, derogatory material was simply removed from the State Department's files on foreign service personnel, leaving nothing to show the material ever was there.)

Consider Alger Hiss, Judith Coplon, the atom spies, efforts to sabotage the Austrian exchange negotiations. To these big scandals add a hundred small ones, and the proof of Russian activity inside the United States government is overwhelming.

THOSE whose past treachery is now known were for many years above suspicion. High above it. They did not have to deny suggestions of their Russian allegiance; they laughed them off. Are there others like them yet undiscovered? The Senate report says yes.

At first glance, it would seem that the Senators who say this so surely ought to be able to point out the culprits. But must we wait until they do, beyond any possibility of doubt, before we feel concern? If one of the family smells gas we do not challenge him to take a floor plan and point out the leak: we join him in looking for it.

The Senators rest their assertion upon three kinds of data. One is testimony that the persons exposed up to now were part of two rings of Russian agents in Washington, and that at least two other rings were operating there at the same time. The witnesses knew of these additional rings, but were not part of them and gave no details about them. So far, neither has anybody else. Maybe those two rings are out of business. And maybe not.

Second, newspapers tell currently of the exposure of questionable persons in government positions who have survived years of investigations (examples are noted later in this article). Rather than suppose each one in turn to be the last, is it not more reasonable to conclude that if previous precautions have missed these cases, they must have missed others?

Finally, there is the fact—to which a great mass of evidence testifies—that the Soviet apparatus piles layer of secrecy upon layer. The substance of this testimony was well summed up by the FBI undercover man Herbert Philbrick. He told the Senate subcommittee in the Hearings of April 6, 1953, that the Communist leadership ordered him to break off all connection with itself. He was to get out of the party; he never was to write or telephone or visit headquarters. He would get his orders by courier. Mr. Philbrick, in short, went "underground," being assigned to a "professional cell" of the Soviet apparatus in Boston. At his first meeting of "Cell Pro-4" he met doctors, lawyers, teachers, professors, business executives, and others high in the community. This witness had the inside knowledge of a party member, the inside knowledge of an FBI operative, and the keen suspicion of a man leading a dangerous double life. Yet he testified: "Three of those individuals I knew personally—this is after I had been in the Communist Party movement for seven years—and three of those individuals in that room that evening I had known publicly and personally outside of the Communist Party and had never had any knowledge or any information indicating that they were in fact members of the Communist Party."

The party calls these "pro-cell" people "floaters." Deeper underground than they are the "sleepers," who never go to any meetings, even the most secret ones. A "sleeper," said Mr. Philbrick, is "a comrade who is put on ice completely. He is in contact with nobody in the Communist Party. He remains completely separated from all party contacts until such time at some date when the Communist Party has some special action, some very special task, which it may need to have done with the greatest security, and that is when they will call upon a sleeper to carry out a particular task."

This is part of the substantial basis for the finding of the Senators that Russian penetration of our government "has not been fully exposed." We know there *was* a fire; we do not *know* if it is out.

The grounds are less clear and evident for the subcommittee's finding that policies framed by Soviet conspirators are now in force "and constitute a hazard to our national security." This finding is offered as the considered judgment of a unanimous subcommittee. That does not make it gospel, but surely it is not to be brushed off, even though it may rest upon no more than the assumption that policies drafted by so many highly placed persons are still in force. In private affairs, when an embezzler is caught in an office, we do not think it unreasonable to look over his books for some years back.

IN THE interests of their security, the American people have a right to something more solid than assurances that there is nothing to worry about, that the Reds are all gone, and that the alarm is being whooped up by anti-liberal politicians.

Are not assurances that there are no more subversives on the government payroll of a piece—they have the same sound and they are made by the same people—with similar assurances offered a few years ago to the effect that there had never been and were not then any subversives there at all? Such statements have been pouring out ever since Dr. William A. Wirt touched off the first controversy over subversion nearly twenty years ago. Indeed, they have represented one of the great barriers in public opinion to attacking the whole problem. Even today leading liberal publications deride the present revelations as "spy thrillers."

Dr. Wirt was the superintendent of schools in Gary, Indiana, a man of standing in his city and his profession. He asserted in March 1934 that there was a massive conspiracy in motion to overturn the American social order and set up a "planned economy." He said he was told that "Roosevelt is only the Kerensky of the coming American revolution." His story was vague and muddled, and might well have been considered too ridiculous to proceed upon.

But it *was* proceeded upon. The House set up a special committee which moved to investigate, not the charges, but Dr. Wirt.

He was refused the aid of counsel; he was denied leave to read a statement; he was heard a week before any other witness. Those who were to answer him knew in advance every syllable of his testimony; at their leisure they could get ready in conference to reply in concert.

The late Representative Alfred L. Bulwinkle said in the House that Dr. Wirt was a pro-German who had been jailed during the First World War. This was not true and Mr. Bulwinkle manfully took it back five days later. But of course this retraction never caught up with the slander, which was quoted "from the record" from then on.

The six persons Dr. Wirt named as his sources took the stand. One and all, they denied his whole story. They testified in each other's presence. They were not cross-examined. There was no Daniel to test them. The special committee gave them a clean bill. Dr. Wirt was demolished and the *New York Times* declared that the plot he thought he had uncovered "is certain to expire in the midst of inextinguishable laughter."

YET Dr. Wirt was profoundly right, and those who laughed him down were profoundly wrong. Plots were afoot indeed; cells of Russian agents were at that time at work in Washington. Their aim, it is true, was not a planned economy for America, but penetration and espionage and shaping of public policy on behalf of Russia. Dr. Wirt may have stumbled upon and misunderstood a wisp of evidence to this effect; he may have just overheard some loose talk. Certainly his conservative bias was evident, his facts were flimsy, his story was hazy, and the trail was cold. (He took six months to make up his mind to speak out.) An honest and vigorous investigation would probably have turned up nothing.

However, no such investigation was made. There were proceedings, with radiocasts, newsreel cameras, platoons of correspondents, and all the other trimmings. But the effort was not to find out anything; it was to make fun of the alarmist from the backwoods.

It is just this that gives deep significance to the trivial matter of Dr. Wirt. This was the first uproar over loyalty and security, and it set a pattern that prevailed for many years—the pattern of controversy, in which large indiscriminate charges of treason and disloyalty are made, and the liberals take every move, be it against the Communists or themselves, as a blow aimed at them, close ranks, defend whoever is named, and reply to the accuser and the accusation with invective. The vicious circle was set up in which the focus was not on security but on political and economic belief. Liberals were frightened—or gulled—not merely into defending themselves, but into defending Communists and Communists spies. They denied the threat to security and, worse, they denied both the need and the right of the government to make inquiry into the whole matter.

JUST this reception was waiting for Representative Martin Dies of Texas in 1939 when he became chairman of the House Un-American Activities Committee and began accusing government employees of subversion. Miss Bontecou declares: "The intended implication of Communism in high places was inescapable. The result of these proceedings was to implant firmly in the minds of the members of the Roosevelt Administration and of Liberals throughout the country the conviction that the purposes of the Dies committee were chiefly political and had little to do with a genuine search for subversion but much with partisan attack upon the Administration."

Thus an issue was joined not between this government and whatever enemies might be on its payroll but between the Administration and the liberals on one hand and Mr. Dies and the conservatives on the other. Or so it seemed in 1938. Now we know some of the "liberals" really were Russian agents, with a life-and-death interest in maintaining the position then taken by the Administration and its friends. And, of course, it was to be seen all along that the faction behind Mr. Dies was manned in plenty—but by no means altogether—by anti-

New Deal crackpots whose irrational clamor did its part to obscure the really important issue—the safety of the United States.

Mr. Dies declares that he thought Fascism and Communism were equally dangerous. He harassed Bundists and the Silver Shirts as well as Communist fronts. But these strokes won him no respite and his cause no support; they were brushed off as window-dressing.

Mr. Dies, however, was no timid superintendent of schools. He stood fast and hit back. He named persons and organizations. With equal vehemence he attacked those against whom nothing has been shown to this day, those against whom nothing was proved then but against whom much has been uncovered since, and those against whom he was able to make a showing right then and there.

The handful of cases in the last group did nothing to convince the Administration that its house needed cleaning. They did little to persuade the public at large; the people mostly were indifferent onlookers, neither alarmed by Mr. Dies' warnings nor outraged by the excesses of which he was accused.

BUT they did induce Congress to launch the series of measures whose story Miss Bontecou has written in her book, *The Federal Loyalty-Security Program*. A lawyer and a former civil servant herself, Miss Bontecou knows the subject well. Within its limits hers is a good history, though it does not live up to the claim of its editor—Professor Robert E. Cushman—that "it should give the inquiring citizen the facts and reasoned judgment on which an informed and prudent public opinion must rest." For the book is not an unbiased study. Miss Bontecou says it "could not be." The first concern of the foundation that provided the grant was, as we have noted, the impact of security measures on civil liberties—a concern not only proper, but admirable. However, the *first concern* of "an informed and prudent public opinion," certainly when confronted by a threat like that mounted by Soviet Russia and the international Communist movement,

must be the security of the United States, which, as Miss Bontecou herself says, she considers "only in passing."

In theory, security is an administrative function, to be quietly and temperately undertaken, with removals and transfers discreetly accomplished, without rousing anybody to frenzy. In this country, under the conditions of the 30's, such a course was out of the question. The Administration was committed, or rather soon found itself committed, to its line that no subversives were in its service, that if there were they were not a danger, and that in general the whole uproar was an anti-New Deal tactic. Thus committed, the Administration could neither initiate nor carry through its own house-cleaning.

This line of thinking was natural and perhaps unavoidable. Government service was full of enthusiasts whose ideals were high and authentic. When Mr. Dies and his associates freely confused the New Deal with subversion, what was more human than for New Dealers to equate anti-subversion with reaction?

Surely this combination of outraged idealism and the kind of plain, ordinary partisan politics that is indigenous to our two-party system goes far to explain the Administration thinking of the late 30's. *But it does not explain away the responsibility, the affirmative duty, of the Executive Branch to keep security risks off the payroll, regardless of Mr. Dies.* Nor does it explain away—and this is what really counts today—the consequences of the failure to carry out this Executive responsibility.

WITH the Administration standing pat, the clean-up drive had to come from Congress. Those in Congress who sparked the drive were men who groped for the facts and for an understanding of them. They warned of danger; they suspected subversion in many fields; and, whether or not they were ambitious or partisan, they have piled up a mountain of evidence to show that they were essentially right.

Unfortunately for them and for us, they

very often compromised their efforts by their angry, sweeping statements and muddy thinking. Their sorties into Hollywood and the universities, whatever their merits or demerits, had the effect of diluting their warnings about the government service. They were indeed concerned with "un-American activities," but subversion within the government became only one of many "activities." Often they followed the trail of private opinion, and lost sight of the real quarry.

If the liberal counter-attack was easy to understand, by the same token it is hard to say that the Dies faction could have acted otherwise. Not only did they not have executive cooperation; they were fenced out by aggressive non-cooperation; and from the start the whole liberal coalition showered them with abuse as sustained and savage as their own. They hit back. Each wrong-headed policy fed upon the other—a vicious spiral. The Kremlin must have loved it, and there is no assessing the rich dividends the Russians reaped in divisive controversy and diversion down to this day. The historian will be hard put to it to decide which side was most guilty. Both cooperated in the sad result. One fact is indisputable: our country was the loser.

WHILE Congressional committees could, and did, poke into everything from musical comedy to Sunday school papers, the only area they could reach with legislation was the government itself. The first measures were enacted in 1939. The Emergency Relief Act forbade the payment of any of its funds to any person "who is a member of an organization that *advocates* [italics mine] the overthrow of the Government of the United States by force and violence," or to any person himself advocating such overthrow. Next, Section 9-A of the Hatch Act forbade a government worker to belong to such an organization. The Emergency Ship Construction Act of 1941 made it a crime for such proscribed persons to accept wages or salaries, and this provision has been written into every appropriation act since then.

A ban against Federal employment of

Communists and Nazis was voted in 1940, but the courts threw it out, saying it was discriminatory: the bare fact of membership did not warrant dismissal. The Supreme Court more recently held that the Attorney General must grant an organization a hearing before listing it as subversive.

Congress also authorized the military departments to dismiss any person for "conduct inimical to the public interest in the defense program of the United States." The departments were required to inform the employee as to the allegations against him and to give him a chance to answer them in writing. Under this law, by 1950, the Navy had fired 244 persons, the Army 115, and the Air Force nine. These were civilian workers; the Act did not apply to service personnel.

The Administration was obliged to set up loyalty programs to carry out these laws. All these programs had built-in weaknesses. The Civil Service Commission recognized the "potential disloyalty" of Communists, pro-Nazis, and the like. But its agents were ordered not to inquire into union affiliation, support of Loyalist Spain, the Harry Bridges defense agitation, the Lawyers' Guild, and a drove of like enterprises all of which were swarming with Communists. The Commission frankly sought to avoid trapping liberals—but its badly conceived and executed precautions toward this end allowed Communists to slip through.

PRESIDENT Roosevelt in 1940 ordered investigations begun upon request of the employing agency. Complaints poured into the departments, but Miss Bontecou reports they were "received with hostility." So that of the first 1,597 complaints passed on to the departments by the FBI, only 193 brought requests for investigation; 254 brought notice that no inquiry was wanted; and the other 1,150 were not acknowledged at all.

This resistance of the government departments brought an order in 1941 authorizing the FBI to investigate without request. A few months later, in April 1942, an interdepartmental committee was set up to advise the agencies. But they did not have to fol-

low advice—and they did not follow it. The total result was that, of 4,579 employees complained of, 36 were dismissed and 13 were shifted to other jobs. When the FBI reported these results to Congress there were charges of whitewash.

In 1943, President Roosevelt set up a new interdepartmental committee with a wider range but no greater real power. Starting with 25 a month, its case load by 1946 fell to four a month. The total result of this program was the discharge of 24 persons, and the disciplining of 32 others.

These programs can be fairly said not to have pursued their stated objectives. Instead, they were made vehicles through which the administrators could express their original conviction, that no such programs were needed in the first place.

These measures made up the sum of the American security effort in the war years, when Russian espionage and propaganda were at their height inside the American government. In those days tolerance of Communists and amity with the Soviet Union were the official and customary things. Fascism was the sole enemy. Senator Taft as well as Representative Marcantonio hailed the Red Army. Warnings were muted by the retort that the great political tactic of the Nazis was to drive a wedge between ourselves and our Red "ally." Having rebuffed Russian gestures toward selling us out by a separate peace, the Nazis could more hopefully have set out to estrange a tapeworm from its prey. But that is much easier to see now than it was ten years ago.

AS THE war drove towards its end, the Kremlin began to show its claws abroad; and then scandals began to burst over here. Bales of "top-secret" papers turned up in February 1945 in the office of the magazine *Amerasia*, a place they simply had no business being. A Communist, Carl Aldo Marzani, was found on the State Department payroll a few months later; he was jailed for having made false statements in order to obtain and hold his job. A Royal Commission set up in Canada to check the story of Igor

Gouzenko, the fugitive Soviet code clerk, reported on June 27, 1946 that there was proof of a huge Russian spy apparatus in Canada, England, and the United States.

By that time the honeymoon stage of the alliance between ourselves and Stalin was well over; indeed the cold war was well begun. The loyalty drive came back to life. President Truman on November 26, 1946 named a commission to survey the question. The views of the agencies consulted varied considerably. Attorney General Tom C. Clark declared that one disloyal employee was too many for safety, while Herbert E. Gaston, chairman of the Interdepartmental Committee, thought the government had not been harmed or endangered by the subversion previously uncovered. His view was not too preposterous at the time, because no subversion of any significance had been detected up to then.

The commission recommended vigorous action and on March 21, 1947 the President issued Executive Order 9385, which called for a top-to-bottom overhaul of the Federal payroll, and a machinery of appeals. The first estimate of the cost was \$64 million. The Budget Bureau recommended \$25 million, and \$11 million was actually voted by Congress; to this must be added a very considerable invisible cost in man hours and other overhead that was absorbed by the agencies and departments.

In the course of this program three million sets of fingerprints were checked, with a total "bag" reported by the FBI as follows: two burglars, two minor criminals, one bank robber, one thief, one drug addict, one forger, one fellow-traveler, and two Communist applicants! Eleven in all, and only three of them in the categories sought for—a concentration of one in a million.

The Loyalty Review Board, to which all cases were subject for final decision, reported on June 30, 1953 that it had considered 26,236 cases in its six-years' career. Of these, investigation had been dropped in 2,748 cases when the persons concerned resigned or withdrew their applications; in 3,634, adjudication was not completed for like reasons.

Doubtless, many of these backed away from probable adverse findings. Doubtless, many others had some other reason. There is no basis on which to estimate the proportions. At the time of the report, 1,779 cases were still pending, and 1,015 had been referred to the Department of the Army—which, under its own more rigid statutory standards, dismissed 115 persons. Of the other 17,060, the Board ruled that 16,503 were "loyal," and dismissed or denied employment to 557.

Does this report prove that there was not much disloyalty? Or that the program had not accomplished its purpose, despite all the public outcry on the part of well-meaning defenders of civil liberties—and some not so well-meaning — against the Washington "witch-hunt" and "spy-hysteria"?

THESE are the important questions, but throughout the program they have been obscured. The original objection that there was, and is, little or no subversion, has never ceased to be advanced. The people taking this position appear simply not to have read the evidence; or they believe it to be not only balanced, but somehow conjured out of existence, by their suspicion—voiced with great assurance and little restraint—of the manners, morals, and motives of the Congressmen who presided at the hearings. In a word, these people declare the issue to be, not security, but "McCarthyism." Analysis of their position would be quite useful, but would take us too far afield here. For the purposes of this article it is assumed, on the basis of what we believe any objective person must by now consider ample proof: (1) that there were a number of persons like Alger Hiss in the government and that they actually did harm the United States; (2) that the possibility that other such persons are now in the government service is a real one; and (3) that, finally, even though everything said by everybody against the Wisconsin Senator and his colleagues may be true, the weight of assumptions (1) and (2) is not diminished thereby.

When point (2) is brought up it is too often voiced, and answered, in the same over-

certain and hysterical (and politically partisan) spirit that muddled the debate over the need of a loyalty program at all. It is objected that the civil liberties of government workers are being violated, their privacy invaded; it is charged that the proceedings against them are based on malice, jealousy, and trivial suspicion, and conducted without fairness, sometimes without ordinary decency. The result is said to be a wave of panic destructive of morale and competence throughout the government service, and to such a degree that no one in the service can fulfill his responsibility for fear of false accusation; and no one in his senses will take government posts under prevailing circumstances.

As far as the supposed demoralization of the civil services goes, this writer can say only that he has been in Washington all during this period and observed no such thing. Alarm here and there, yes (and very often it was not the actual facts but some widely publicized wild view of them that caused the alarm). But general panic, no: that was, and is, reserved for rumors of RIF (reduction in force).

The instances of specific abuses that are cited disclose considerable exaggeration. Questions asked in any investigation of personnel are sure to be invasions of privacy, and some of the horrible examples produced can be shown to be out of context. For instance, in one leading case, widely condemned, the employee was asked how she stood on blood segregation by the Red Cross. Apparently a most impertinent interrogation. Not until the case had gone through the courts was the board member who asked the question able to explain, with propriety, that his question did not relate to the private beliefs as such of the employee, but to her activities in behalf of an undeniably Communist-dominated organization of which she was an officer, and which was exploiting the blood issue in its propaganda.

However, despite the weakness of some of the evidence presented, it may be taken for granted that there were abuses in the conduct of the loyalty programs. No operation

so extensive could have escaped them. But to see this is far from concluding that such abuses were general, or that the way to mend them was to campaign for the elimination of the whole program.

PUT the matter on a quantitative footing. The cases before the Board involved a little over one-half of one per-cent of four and a half million employees and applicants. Of these cases, a total of 557—fewer than 2 per cent—ended with dismissals. Assume that all pending cases and those who resigned under investigation or during adjudication would have been dismissed, and the percentage rises to 34 per cent. Or take only cases in which there were final rulings, and of 17,060 cases there were dismissals in only a trifle over 3 per cent.

The police make many mistaken arrests; grand juries indict many persons who are subsequently cleared. From time to time there are really horrible cases of people proved innocent after years behind the bars. Despite these errors, our police and our courts have a good over-all record for administering justice. Can we say as much of the loyalty procedures? Certainly not. When people are placed in jeopardy of any kind, before any sort of tribunal, and 98 per cent, or 97 per cent, or even 66 per cent of them are exonerated, something is wrong. The charges are ill advised, or the adjudication is at fault. Or both. Here it is surely both, for there are two sides to the record.

On the one hand, cases have been rested on such things as having given the name of a former supervisor (later under suspicion) as a reference, having drafted a letter on the order of a superior, reading the *New Republic*, possessing books "about" Russia, having expressed socialist views when a college student, having advocated peace and civil liberties at a time when the Communists favored them, having gathered material about Communism (mostly against it) when the subject was assigned in a public speaking course, reading the Bund paper *Deutsche Weckruf und Beobachter*, having been "regarded" as a Communist, etc., etc.

Being pitched upon "loyalty"—a concept hard to make objective—the programs necessarily threshed over this sort of trifling gossip throughout their operation. Of great significance, but wholly overlooked, was the testimony of Seth Richardson, chairman of the Review Board, in 1950, that "not one single case, or evidence directing toward a case, of espionage has been disclosed in the record."

On the other hand—consider the case of James McNamara. Ousted from his union vice-presidency by an anti-Communist faction in 1942, Mr. McNamara was promptly appointed a commissioner of the Mediation and Conciliation Service. When FBI reports indicated his Communist background, he was haled before a loyalty board, which cleared him. A review board condemned this finding as "against the evidence." Nevertheless, Mr. McNamara remained in his position—the government spokesman in critical strike situations—until September 1953. There was no administrative pressure on him even then. He quit under the fire of a Congressional committee.

Or the case of Edward M. Rothschild, a binder in the Government Printing Office. Within his reach was secret material that he was "not supposed" to touch because he was "not authorized." Mr. Rothschild rode out a whole series of loyalty proceedings in which the board was informed that dozens of informants had named him a Communist party member, and that one had flatly accused him of stealing a code book. The loyalty board did not call for the evidence of any of these informants—some of whom were available—but heard only the man's own witnesses, and then sent him back to work.

THE "loyalty" procedures, then, have given hit-or-miss results. They have neither spared the innocent nor trapped the guilty. With good cause, people fear that other faithless civil servants are in a position, today, to serve Russia and harm the United States. The programs simply did not determine what they were set up to determine. Another attempt must be made, and this time success is obligatory.

The loyalty effort began in controversy, and under this government it could not have been otherwise. From this controversial origin stem two of the principal causes of the failure.

One was the general reluctance, or hesitancy, of administrators that already has been noticed. The other was a wrong emphasis, a mistake in direction. We have spent all this money and made hash of our tranquillity in the name of *loyalty*, when our real objective was *security*. The difference is subtle, but very real and very deep. Suppose the football coach, instead of saying he was out to build a good husky team, announced he was going to kick all the cowards and weaklings off the squad. The point I hope is clear that the government should try to get good people, of unquestioned integrity; that the emphasis in its hiring and firing policies should be as much on getting certain virtues as on avoiding defects.

The first acts of Congress forbade employment of certain categories of persons to whom disloyalty was imputed. The Roosevelt interdepartmental committee was authorized to deal with "complaints of subversive activity." President Truman, in setting up his comprehensive program, authorized dismissals whenever there was "reasonable ground for belief that the person involved is disloyal." Later, on recommendation of the board, Mr. Truman made the standard "a reasonable doubt of the loyalty of the person involved."

These provisions focused the issue upon the individual, made an issue of his "guilt" or "innocence," when—as a matter of law and of fact—he was not charged with anything. This in turn led to endless confusion. The "accused" and their supporters asserted the presumption of innocence. Against summary procedure was invoked the honored maxim that it is better for a dozen guilty men to go free than for one innocent man to be wrongfully convicted.

These principles bind judges and juries, and very properly. But an *employer* (and above all the *government as employer*) cannot well observe them. For when an em-

ployer refuses to hire an applicant, or fires an employee, he does not assert the employee is guilty of a crime, but merely indicates that he is not satisfied that the person can do the job. Of course he may, and in fact must, act on something less than proof "beyond a reasonable doubt." A watchman suspected of arson ought to be—and he is—presumed innocent when he is in court, but who would leave him on the job while there was any doubt? Judicial principles applicable to the trial of criminal cases can be applied in the public business no better than in the warehouse.

That the line of thinking they express came into the picture was due to the procedure by which charges were laid against individuals. When an adverse ruling carries the flavor of a conviction and the stigma of disloyalty, the person involved is going to invoke judicial principles and all the rest of Anglo-American law. He is going to fight back, in short, as hard as he can, the unworthy just as hard as the worthy. He is going to receive a great deal of public sympathy. Any program that proceeds on the basis of individual "guilt" or "innocence" is sure to meet such resistance. It could be overcome by a system of arbitrary dismissals, upon suspicion or caprice, without hearings. But such a cure would be, indeed, as bad as the disease.

IT DOES not follow that there can be no cure at all. President Eisenhower may have formulated one, in the new program established May 27, 1953, by Executive Order 10450, which makes department heads responsible for security, requires them to investigate adverse information about their employees, and provides:

"Section 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension

necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable. . . ."

This language is as clear as it is awkward. The vital shift of emphasis is accomplished, from *loyalty* to *security*. The Order provides that employees be told in writing why they are being suspended, and be given 30 days to reply. Permanent or indefinite employees may ask for a hearing before "three impartial and disinterested persons" from other agencies. At these hearings the employee may have counsel, may present witnesses, and may cross-examine his accusers, if they appear.* The boards are enjoined to "take into consideration the inability of the employee to meet charges of which he has not been advised, because of security reasons, specifically or in detail, or to attack the credibility of witnesses who do not appear." (As did President Truman, Mr. Eisenhower concedes the practical necessity of withholding the source of data, the names of informants. Here, at least, is formal acknowledgement that this is a dubious business, to be warily handled.) Employees restored to their jobs are entitled to be paid for the period of their suspension. Responsibility for the final decision is placed squarely upon the head of the agency or department. If he is harsh and arbitrary he is sure to cut down efficiency, for which he is also responsible. This is not certain to work out well, but there are at

*These safeguards, here given in brief summary, certainly do much to meet the legitimate objections of critics concerned about due process. Whether they are enough depends on the way they work in practice. Should the need arise they may well be reinforced with other safeguards. As Order 10450 states: ". . . all persons should receive fair, impartial and equitable treatment at the hands of the Government." A total of 1,456 dismissals under the Eisenhower program have already been announced, and no one has gone to court or run to the newspapers with outcries of foul play. However, it is not yet possible to evaluate the Eisenhower program in any comprehensive manner.

Being pitched upon "loyalty"—a concept hard to make objective—the programs necessarily threshed over this sort of trifling gossip throughout their operation. Of great significance, but wholly overlooked, was the testimony of Seth Richardson, chairman of the Review Board, in 1950, that "not one single case, or evidence directing toward a case, of espionage has been disclosed in the record."

On the other hand—consider the case of James McNamara. Ousted from his union vice-presidency by an anti-Communist faction in 1942, Mr. McNamara was promptly appointed a commissioner of the Mediation and Conciliation Service. When FBI reports indicated his Communist background, he was haled before a loyalty board, which cleared him. A review board condemned this finding as "against the evidence." Nevertheless, Mr. McNamara remained in his position—the government spokesman in critical strike situations—until September 1953. There was no administrative pressure on him even then. He quit under the fire of a Congressional committee.

Or the case of Edward M. Rothschild, a binder in the Government Printing Office. Within his reach was secret material that he was "not supposed" to touch because he was "not authorized." Mr. Rothschild rode out a whole series of loyalty proceedings in which the board was informed that dozens of informants had named him a Communist party member, and that one had flatly accused him of stealing a code book. The loyalty board did not call for the evidence of any of these informants—some of whom were available—but heard only the man's own witnesses, and then sent him back to work.

THE "loyalty" procedures, then, have given hit-or-miss results. They have neither spared the innocent nor trapped the guilty. With good cause, people fear that other faithless civil servants are in a position, today, to serve Russia and harm the United States. The programs simply did not determine what they were set up to determine. Another attempt must be made, and this time success is obligatory.

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least a balance and a clear lodgment of responsibility, which heretofore have been lacking.

THE responsible officials now are charged with a duty they can perform without adventures into mind reading or divination. No longer are they required to resolve whether so-and-so deep in his heart is really "loyal," a vague and misty question hopelessly confused by the many connotations "loyalty" bears to different people under varying circumstances. The responsibility now is simply to determine whether the reviewing officials, on all the evidence, including his own, are prepared to say the employee is reliable. While this, too, falls short of the neat precision of the law, the problem at least is a familiar one. For this is just the determination a private employer makes every time he hires or fires a man.

The new standard makes a civil servant liable to be told: "Look here, we have such and such information about you that makes us doubt that we ought to keep you on the job." So the civil servant knows there is a doubt; he knows, in general anyway, what caused it; it is up to him to overcome it. He is, in short, in almost the same position as an ordinary citizen whose employer has come to doubt him. The differences are all in favor of the civil servant. A worker in commerce or industry may never know what hit him, but the government worker has procedural safeguards. He doesn't have to take it lying down; nobody wants him to and nobody expects him to. The channels of reply are there, and they are meant to be used. If he has a good story he may win.

He may lose, too, and in that case is not the adverse finding quite as harmful as it ever was? I think anyone applying for a job would rather say he had left his previous employment because he was considered a security risk—which covers many possibilities*

*Including a careless tongue and similar irresponsible traits of conduct, intimate social and familial relations with subversive persons, personal habits exposing him to possible blackmail or coercion, etc., etc.

—than because he was considered a loyalty risk. If, in public opinion, "security risk" comes to mean the same thing as "disloyal," then it would hardly matter for what reason one was dismissed. But I don't think this has happened; and I think a good job of reporting this problem—and that means treating the people involved in security cases as neither martyrs nor lepers—will prevent it from happening.

SOME of the old errors are being avoided, so that the Eisenhower security program appears a long first step toward reestablishing a wholesome atmosphere in the government service. With justice and restraint, the program may solve the problem. But it can fail, too, if either its administrators or the public assume that *every* government worker brought into question ought to be fired, or that *none* ought to be fired. It could be defeated by excessive Congressional interference, of which there is some possibility, and it could be defeated by Congressional apathy and neglect, of which there appears to be no likelihood whatever. To ride herd upon the Executive Branch is a function of the Congress; though we can ill afford to have its investigative powers misused, we still less can afford to have them disused.

The security effort can be handicapped in its main purpose, and prevented from reestablishing public confidence, by new outbursts of secondary, partisan controversy, to the exclusion of the real problem of security. Criticism, looking to correction and improvement, of course. But wholesale denigration of the program, its objectives, its motivations, and its procedures—whom will that help?

Indeed, men of good will might do well to do more than *hope* such impediments do not arise to block the effort. As good Americans, concerned for the safety of our society, and the honesty of governmental servants entrusted with that safety, we might well endeavor to prevent their arising. For among all these doubtful matters one thing is dead sure: we cannot stand against the Russians on any front, cold or hot, while their agents are inside our government.